Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 90.494	)	
of the Commission's Rules and	)	RM-7986
Regulations Concerning Shared Use	)	
of 900 MHz Paging Frequencies	)	

To: The Commission

REPLY COMMENTS
OF THE
ASSOCIATION FOR PRIVATE CARRIER PAGING SECTION
OF THE
NATIONAL ASSOCIATION OF BUSINESS
AND EDUCATIONAL RADIO, INC.

Respectfully submitted,

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Date: June 25, 1992

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SUMMARY

The Association for Private Carrier Paging Section of the National Association of Business and Educational Radio, Inc. ("APCP") respectfully submits its Reply Comments in response to the Comments filed in the above-referenced proceeding.

NABER believes that the objections which have been expressed are in the nature of anti-competitive challenges from common carrier licensees, a frequent occurrence in the PCP service. It should be noted that MTEL operates a nationwide common carrier paging system. Thus, there could be a significant competitive impact on MTEL from PCP operators which have already built-out 300 or more transmitters in their 900 MHz systems now having exclusive use of their frequencies on a nationwide basis. The Commission should weigh these Comments versus the benefits which will accrue from the APCP proposal to the rest of the paging industry and paging customers.

APCP believes that an additional positive effect of the APCP proposal will be a reduction in wide-area paging service costs to consumers, due to increased competition. The cost of paging service to consumers can be expected to decrease even further as operators are able to spread the cost of the build-out of the system infrastructure over the additional users which could be loaded on the system due to the system's exclusivity.

APCP believes that there will be a small number of channels licensed on a nationwide basis, a number of channels utilized by regional operators operating on an exclusive basis, a number of

channels utilized by local operators and non-commercial users operating on an exclusive basis, and a number of channels utilized by operators and non-commercial users operating on a shared basis. In fact, this is the manner in which most 900 MHz paging-only channels operate today. APCP seeks to enable this utilization to continue and encourage operators on 150 and 460 MHz paging-only frequencies to utilize the remaining channels.

For local operators with less than six (6) contiguous transmitter sites, it can be expected that they will continue to operate in the same environment as exists today, with the possibility that the frequency will be shared in the future. Other local operators will be able to "grow into" exclusivity by building out their systems on a local basis. In actuality, the APCP proposal provides greater benefits to the small operator currently using 900 MHz channels, as such operators are the most likely to eventually share the channel under the current rules, and achieve exclusivity under the proposed rules.

MTEL states that APCP's request is inconsistent with Section 332 of the Communications Act. However, exclusivity on assigned frequencies is not found in the Communications Act as a consideration as to whether a private radio system complies with Section 332. For example, the Commission provides for channel exclusivity for private carrier systems in the 220 MHz, 470-512 MHz and 800-900 MHz bands. Therefore, MTEL's call for some type of "reexamination" of common carrier regulation is outside of the scope of this proceeding.

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NATIONAL ASSOCIATION OF BUSINESS
AND EDUCATIONAL RADIO, INC.

The Association for Private Carrier Paging Section of the National Association of Business and Educational Radio, Inc. ("APCP") respectfully submits, pursuant to Section 1.405(b) of the Commission's Rules, 47 C.F.R. §1.401(b), its Reply Comments in response to the Comments filed in the above-referenced proceeding.

I. COMMENTS OF OTHER PARTIES

Of the Commenting Parties, two parties have opposed APCP's proposal, Dial Page and Mobile Telecommunication Technologies ("MTEL").[1] Comments in support of the proposal were filed by PacTel Paging ("PacTel") and Paging Network, Inc. ("PageNet").

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[1]One party, Dial-A-Page, does not oppose the proposal. Instead, Dial-A-Page suggests several revisions and requests that the proposal be included as a part of PR Docket No. 91-170 (Refarming below 800 MHz). In addition, opposing Comments were filed by Fone Page, Inc. and Raserco, Inc. However, each Commentor used a form letter prepared by MTEL for their Comments. Therefore, APCP will treat these Comments as if filed by MTEL. In addition, these Comments failed to comply with Section 1.405(a) of the Commission's Rules, in that APCP was not served with a copy of the Comments.

A. **Comments of PacTel, PageNet and Dial-A-Page**

PacTel and PageNet support APCP's proposal. Each recognizes the current congestion on the paging only frequencies below 900 MHz.[2] PageNet states that a shared paging channel is inefficient[3] and leads to increased costs to customers.[4] PacTel notes that there has been a 20-25% annual growth in one-way messaging service.[5] PageNet points out the difficulties of shared use where one system is controlled via satellite[6] and states that more efficient transmission techniques are based upon synchronous transmission codes, which are incompatible with shared use.[7]

Dial-A-Page requests that this proposal be included in the Refarming below 800 MHz proceeding (PR Docket No. 91-170).[8] Dial-A-Page states that it supports the concept of exclusivity, including the output power and simulcast capability sections of the

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[2]PageNet Comments at 2 and 6; PacTel at 2.

[3]PageNet Comments at 7.

[4]PageNet Comments at 11.

[5]PacTel Comments at 2.

[6]PageNet Comments at 15.

[7]PageNet Comments at 13.

[8]Dial-A-Page Comments at 2. APCP objects to the inclusion of this proposal in PR Docket No. 91-170. First, the refarming proceeding only relates to spectrum below 800 MHz. More importantly, however, the refarming proceeding involves many complex issues and is expected to take several years, whereas the relief requested by APCP herein is required immediately, is limited in scope and is not nearly as complex as the refarming procceding. APCP believes that Commission action on this proposal can and should take place quickly, prior to channel sharing problems arising.

proposal.[9] However, Dial-A-Page also requests that a loading test be included.[10]

Dial-A-Page states that the 12 state Regional system portion of the proposal should be redefined to cover a single state.[11] In addition, Dial-A-Page does not support the National system proposal, as it claims there are other alternatives. Dial-A-Page is concerned that smaller urban and rural areas would be deprived of 900 MHz channels under the National plan.[12] Dial-A-Page asks that the Commission determine how many of the 40 channels should be available for nationwide service and then permit qualified applicants to file applications for the nationwide channels.[13]

B. **Comments of MTEL and Dial Page**

MTEL opposes the proposal. MTEL states that six (6) of the forty (40) channels will immediately be exclusive nationwide and the remaining 34 could later be converted to nationwide use.[14] MTEL criticizes NABER's alleged failure to include in its proposal a means to ensure that spectrum is available for migration and non-commercial paging users.[15] MTEL states that NABER:

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[9]Dial-A-Page Comments at 2.

[10]Dial-A-Page Comments at 2, 3.

[11]Dial-A-Page Comments at 3-4.

[12]Dial-A-Page Comments at 5.

[13]Dial-A-Page Comments at 5.

[14]MTEL Comments at 2.

[15]MTEL Comments at 3.

[1] failed to analyze the effect on local licensees which are on channels which are used by nationwide licensees;[16]

[2] did not address speculation;[17]

[3] did not propose a process for giving smaller entities a "fair start" to catch up to entities which are already built-out;[18]

[4] did not address the effects of a "large scale conversion" of frequencies to nationwide use;[19]

[5] did not take into account the abundant spectrum at 930-931 MHz;[20]

[6] did not discuss the costs and dislocation effects of the proposal;[21] and

[7] did not discuss what happens in the areas where the nationwide licensee does not operate.[22]

MTEL states that the proposal is inconsistent with Section 332 of the Communications Act in that it eliminates what MTEL claims is the only remaining distinction between common carrier paging systems and private carrier paging systems.[23]

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[16]MTEL Comments at 6.

[17]MTEL Comments at 3.

[18]MTEL Comments at 2.

[19]MTEL Comments at 5.

[20]MTEL Comments at 8.

[21]MTEL Comments at 9.

[22]MTEL Comments at 4.

[23]MTEL Comments at 16.

Dial Page also opposes the APCP proposal. First, Dial Page states that NABER has not shown that there are any problems with current channel sharing.[24] Dial Page claims that shared frequencies are not inefficient, but that there is a maximum number of users which can be accommodated regardless of how many systems there are on the channel.[25] Dial Page criticizes NABER's emphasis on regional and nationwide PCP systems[26] and states that the proposal discriminates against small users.[27] Dial Page discusses the lack of use of 931 common carrier paging channels and fears a similar trend here.[28] Dial Page believes that the proposal will lead to speculation[29] and Dial Page relates its own experience buying out speculators on the common carrier frequencies.[30] Dial Page states that the 900 PCP channels are reserved for future PCP growth.

II. REPLY COMMENTS

Initially, it should be noted that APCP's proposal was the product of one year of discussion among the APCP Council and many

[24]Dial Page Comments at 2.

[25]Dial Page Comments at 2.

[26]Dial Page Comments at 4.

[27]Dial Page Comments at 5.

[28]Dial Page Comments at 6.

[29]Dial Page Comments at 6.

[30]Dial Page Comments at 6.

Section members. APCP Council meetings were held to discuss this issue: at NABER's headquarters in Alexandria, Virginia on October 25, 1991; in Dallas, Texas, on December 17-18, 1991 in conjunction with the Land Mobile Expo; in Las Vegas, Nevada on February 19, 1992 as part of the Land Mobile Expo; and again on March 5, 1992 at NABER's headquarters. Each of these meetings were attended by APCP Council members (which include large and small PCP operators in the 150, 460 and 900 MHz paging bands) as well as by many other large and small PCP operators.

Members of APCP which were unable to attend any of these meetings were kept informed of the discussions through NABER's Business Radio Magazine (which is received by every NABER member) and PC Pages, a NABER publication which is received by every APCP member. Articles discussing APCP's proposal appeared in the February 1992 edition of Business Radio and the November 1991, February 1992 and April 1992 editions of PC Pages.[31]

During these discussions, a number of different proposals were offered, including proposals which provided for a loading test. However, difficulties were expressed with each proposal. For example, APCP was unable to arrive at a consensus on the requirement of a loading test for exclusivity as a mobile unit count disadvantaged certain transmission modes, may not have

[31]Copies of these articles are attached hereto.

provided sufficient additional growth capacity and was difficult to verify.

The APCP Petition represents a solution which was arrived at by a consensus of the participants. APCP believes that the proposal best accomplishes the following goals:

1. Encouraging migration to 900 MHz;
2. Limitation of speculative applications;
3. Minimizing Commission oversight;
4. Making sure paging spectrum remains available for smaller users;
5. Ensuring that exclusive spectrum is actually used and not warehoused;
6. Minimizing disruption to existing operations;
7. Minimizing frequency coordination difficulties;
8. Minimizing regulatory burden on licensees and applicants;
9. Ensuring that smaller operators may also achieve channel exclusivity;
10. Ensuring that existing operators with too few transmitter locations for exclusivity have the opportunity to "grow into" exclusivity;
11. Limiting disputes which have plagued the 150 and 460 MHz paging-only channels.

NABER believes that the objections which have been expressed are in the nature of anti-competitive challenges from common carrier licensees, a frequent occurrence in the PCP service. It should be noted that MTEL operates a nationwide common carrier paging system. Thus, there could be a significant competitive impact on MTEL from PCP operators which have already built-out 300 or more transmitters in their 900 MHz systems now having exclusive use of their frequencies on a nationwide basis. The Commission should weigh these Comments versus the benefits which will accrue

from the APCP proposal to the rest of the paging industry and paging customers.

APCP believes that an additional positive effect of the APCP proposal will be a reduction in wide-area paging service costs to consumers, due to increased competition. The cost of paging service to consumers can be expected to decrease even further as operators are able to spread the cost of the build-out of the system infrastructure over the additional users which could be loaded on the system due to the system's exclusivity.

MTEL expresses concern that six (6) of the forty (40) 900 MHz paging channels would immediately become exclusive to a licensee on a nationwide basis. Assuming MTEL's calculations to be accurate, the figures represent operators which have invested millions of dollars in constructing systems which are currently operating and serving hundreds of thousands of users and not speculators which have licensed spectrum which lies idle.[32] APCP believes that it is appropriate to refrain from licensing other systems on these channels when there are numerous underutilized 900 MHz paging-only channels available for use.[33]

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[32]APCP's proposed threshold of 300 transmitters is consistent with MTEL's nationwide paging system, which reportedly consists of approximately 400 transmitters.

[33]MTEL is concerned that spectrum would lie fallow in markets where the nationwide exclusive licensee does not construct. However, such areas are most likely to be smaller markets where vacant 900 MHz paging-only channels are abundant.

MTEL states that the remaining 34 frequencies will later be converted to nationwide use, and that APCP has failed to address the effect that this conversion would have on the availability of paging frequencies. However, MTEL does not provide any evidence whatsoever of its prediction. In fact, it can be expected that few of the channels would actually become exclusive to a single licensee on a nationwide basis, as this ignores the considerable number of regional systems which have been constructed by PCP operators which do not intend to seek nationwide authorization. Further, the public will ultimately determine how many systems become nationwide systems as operators will not establish nationwide paging systems without the consumer demand.

APCP believes that there will be a small number of channels licensed on a nationwide basis, a number of channels utilized by regional operators operating on an exclusive basis, a number of channels utilized by local operators and non-commercial users operating on an exclusive basis, and a number of channels utilized by operators and non-commercial users operating on a shared basis. In fact, this is the manner in which most 900 MHz paging-only channels operate today. APCP seeks to enable this utilization to continue and encourage operators on 150 and 460 MHz paging-only frequencies to utilize the remaining channels.

For local operators with less than six (6) contiguous transmitter sites, it can be expected that they will continue to

operate in the same environment as exists today, with the possibility that the frequency will be shared in the future. Other local operators will be able to "grow into" exclusivity by building out their systems on a local basis. In actuality, the APCP proposal provides greater benefits to the small operator currently using 900 MHz channels, as such operators are the most likely to eventually share the channel under the current rules, and achieve exclusivity under the proposed rules.

MTEL is incorrect when it states that NABER is creating a process where some have already "crossed the finish line" and others have a "prohibitively long head start". The subject channels have been available for all applicants for many years, yet many operators have elected to continue to operate on lower band frequencies. Frequencies remain available for applicants which are willing to invest significantly in construction of systems, particularly for local systems which could obtain exclusivity.

Dial Page states that APCP has failed to demonstrate that there are problems with channel sharing. However, the Commission is fully aware of the numerous PCP channel sharing disputes which have come before the Commission regarding frequencies in the 150 and 460 MHz bands. For example, APCP recently requested that the Commission amend Section 90.173 of its rules to require the use of terminal connection equipment in certain shared channel

situations.[34] APCP's Petition for Rule Making fully detailed the problems associated with shared paging spectrum. While fewer difficulties have arisen in the 900 MHz band, it is APCP's goal to prevent in the 900 MHz band the channel sharing problems of the 150 and 460 MHz bands before they occur.

It is Dial Page's assertion that channel sharing does not lead to limited use of a channel. However, the fact remains that utilization of a paging channel is inherently less efficient than exclusive use of a frequency from the standpoint of available airtime. Co-channel systems must monitor the frequency prior to use, either by off-air monitoring or through the use of terminal connection equipment. For simulcast systems or systems with sequential control of multiple transmitters, shared use can have a devastating effect on available airtime. In any case, there is a significant amount of air time lost by virtue of the time delay required to mcnitor the channel, as well as transmitter set-up. In addition, the PageNet Comments demonstrate that shared systems will be unable to take advantage of more efficient paging technology, which requires the utilization of synchronous transmissions. Clearly, an exclusive channel represents a more efficient use of spectrum.

MTEL and Dial Page believe that APCP's proposal will lead to speculation. Dial Page cites its difficulties with the many 900

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[34]See, RM-7837.

MHz common carrier paging channels which lie dormant.[35] However, APCP's proposal is specifically designed to prevent speculation which would lead to fallow spectrum. First, it should be noted that since the Commission's lifting of the "freeze" on 900 MHz PCP applications, a freeze which alerted prospective speculators as to possible exclusive use of these frequencies, approximately 800 applications have been coordinated by NABER for 900 MHz PCP systems. However, the overwhelming majority of applications (approximately 80%) were part of an expansion of an existing system.[36] Second, the extensive construction and licensing requirements in APCP's proposal, which go far beyond the common carrier paging construction requirements, ensure that a significant economic investment will need to be made before exclusivity can be

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[35]APCP is encouraged that the Commission is considering instituting a "Finder's Preference" program for such dormant common carrier systems in its proposed Part 22 rewrite. Notice of Proposed Rule Making, CC Docket No. 92-115, FCC 92-205, released June 12, 1992 at para. 13. The program is already instituted in the private services, and would allow operators to obtain spectrum in areas where licensees have failed to construct or have deconstructed their systems. Given the Finders Preference program and the rigorous construction standards recommended by APCP to achieve exclusivity, it is therefore unlikely that the types of speculation which concerns Dial Page and MTEL would occur.

[36]MTEL claims that PageNet's nationwide exclusivity, which would result from adoption of APCP's proposal, is the product of applications filed after the freeze was lifted. However, it would not be accurate to imply that a company which has **constructed** and **operates** one of the largest paging systems in the country is the type of speculator which should not be encouraged to file applications to continue to build-out its system.

achieved. This, in turn, ensures that the threat of speculation is de minimis.

MTEL properly asks what will happen to small licensees on frequencies which are eventually licensed on a nationwide basis for the use of another licensee from another area. It is APCP's belief that such users should be able to continue to operate and expand their systems within their current market areas. No additional systems will be licensed on the frequency for other licensees, however the existing licensee should be permitted continued operation. Therefore, there will not be any costs or dislocation effects as claimed by MTEL at page 9 of its Comments. In addition, terminal connection can be mandated in areas where the nationwide licensee wishes to share a frequency with a previously licensed local operator which does not have sufficient transmitters constructed to obtain local exclusivity.

Both MTEL and Dial Page state that APCP fails to address the available spectrum at 930-931 MHz for exclusive paging use. However, this spectrum has been set aside for advanced messaging type of paging systems, and will most likely use paging techniques incompatible with or different from current 900 MHz PCP systems. APCP believes that it is important to allow current 900 MHz PCP licensees the ability to grow and expand their systems while limiting the possibility of encountering the difficulties of the 150 and 460 MHz paging-only frequencies.

Finally, MTEL states that APCP's request is inconsistent with Section 332 of the Communications Act. However, exclusivity on assigned frequencies is not found in the Communications Act as a consideration as to whether a private radio system complies with Section 332. For example, the Commission provides for channel exclusivity for private carrier systems in the 220 MHz, 470-512 MHz and 800-900 MHz bands. Therefore, MTEL's call for some type of "reexamination" of common carrier regulation is outside of the scope of this proceeding.

III. CONCLUSION

WHEREFORE, the Association for Private Carrier Paging Section of the National Association of Business and Educational Radio, Inc. respectfully requests that the Commission adopt a Notice of Proposed Rule Making and amend Section 90.494 of its rules consistent with this Petition.

Respectfully submitted,

ASSOCIATION FOR PRIVATE CARRIER CARRIER PAGING

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Date: June 25, 1992

CERTIFICATE OF SERVICE

I, Ruth A. Buchanon, a secretary in the law firm of Meyer, Faller, Weisman & Rosenberg, P.C. hereby certify that I have on this 25th day of June 1992, sent via First Class United States Mail, postage prepaid, a copy of the foregoing "Reply Comments" to the following:

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* - Via Hand Delivery

Exclusivity at 900 MHz:

Will it solve private carrier paging's problems?

by Jim Rapp

NABER's APCP members have been trying to come up with solutions to overcrowding and interference problems on many paging channels. Will exclusivity at 900 MHz solve these problems? We asked six members to give us their thoughts. You may be surprised at their responses.

NABER's Association for Private Carrier Paging (APCP) is a very active group. They and the council members that represent them have been doing a lot more than just talking about industry problems, such as interference and channel overloading. They've made their voices heard on Capitol Hill and at the Federal Communications Commission (FCC).

Most recently, when the FCC ordered a freeze on 929 MHz applications, the APCP Council voted unanimously to support lifting the freeze and took their case to the Commission. The freeze was lifted shortly thereafter.

The council has discussed the idea of exclusive channels, with the general consensus being that they were not feasible. However, the council did agree that "earned" exclusivity might work, with "earned" meaning that channels would continue to be shared, but when a certain loading level is reached, it would be considered "full" and no more licenses would be assigned to it.

In order to have "various voices heard" on the subject, *Business Radio* asked a few members on both sides of the issue to express their opinions. We hope this article will spur interest, not simply on the issue of exclusivity, but also to get more members involved in helping solve today's paging problems and building for the future as well.

Business Radio is also interested in your thoughts on the topic. Please let us know what you think.

PRO

Bert Wachtel
President
Satellite Paging
Fairfield, New Jersey

How do you feel about the idea of paging channels being distributed as exclusive on the 900 MHz band?

It's an excellent idea. Ultimately, it will benefit paging users, with improved transmission quality and better service. Also, it will enable the service providers to be more efficient.

How would this affect your business?

On the 929 MHz band, we would be more willing to expand into other markets and other cities, and not feel pressured to load the systems. On our current 152 MHz channels, which are not exclusive, it should have no effect. We currently operate PCP and RCC businesses in Florida and the Northeast, with 75,000 pagers in service.

We filed for licenses in 50 key markets around the country. Of those 50, we're prevented from entering about 10 because there's a license holder on that frequency. We're linking with satellites in the Northeast, which will allow us to provide service to these other cities at a reasonable cost. If we had exclusive channels, we could provide a better grade of service for our traveling customers.

How do you think it would impact the paging industry?

I see the industry growing by leaps and bounds over the next five years. Exclusivity will not affect that growth one way or another. It will just make life a whole lot easier!

Do you have any alternative ideas?

Some frequencies could be exclusive and some could be shared. Operators building a regional or nationwide paging system, currently using a specific 900 MHz channel, could be upgraded to an exclusive frequency.

What role do you think NABER should play on this issue?

NABER should take a leadership role in setting the standards and interacting with the FCC on rule-making changes. I think the PCP holders, working together as a group, within the confines of NABER, presenting a united front, will go a long way in keeping old problems out, while maintaining an orderly industry growth.

Henry Zachs
Owner
Message Center Beepers
Hartford, Connecticut

How do you feel about the idea of paging channels being distributed as exclusive on the 900 MHz band?

It would be a very positive move. There will be many benefits, including a lack of interference. We are currently using 152.480 MHz, but we are in the process of using the 900 MHz channel.

How would this affect your business?

It should enhance it. There are enough frequencies available that there's not the necessity for sharing. Private carrier paging in the 150 MHz range has presented problems for both the newcomer and the established operator. We've worked through these problems, but it's a costly way to do business.

We operate both PCPs and RCCs, with coverage from Portland, Maine, all

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the way down to Washington, D.C. We currently use about 150 transmitters—I think we have more than anyone else. We plan to be a national organization. We do some reselling and are also operating in California.

I see the 900 MHz range primarily for new growth. It's more expensive to operate, but certainly not prohibitive.

How do you think it would impact the paging industry?

It would be a boon to the industry. It would increase competition, improve the quality of service and attract many new users.

Do you have any alternative ideas?

No, this is the best alternative overall.

What role do you think NABER should play on this issue?

NABER should be the continuing force to allocate the channels. It serves a very fine function for the paging industry today. NABER has made things happen in the past and I see that not only continuing, but growing and expanding over the coming years. NABER will "make it happen" for all of us in the '90s.

Jerry Nelson
President & CEO
Comtech
Hayward, California

How do you feel about the idea of paging channels being distributed as exclusive on the 900 MHz band?

I think there should be a system worked out to gain exclusivity over time, based on someone's investment and someone's loading of the frequency.

I think the idea that you can just file for a frequency, and then have it, doesn't serve anyone's interest. I'm not in favor of exclusivity, per se. I'm in favor of doing something different than what's being done today. If someone files for a frequency, they should construct it and load it, based on the number of subscribers it will support. Once loaded, it would gain exclusivity. Earning it would be the proper approach.

How would this affect your business?

It would not affect current business. We're builders and operators, interested in loading our systems.

How do you think it would impact the paging industry?

It would provide better utilization of the spectrum. NABER would play a vital role in coordinating these frequencies, monitoring the activity on them. I think industry regulations are the best kind.

Do you have any alternative ideas?

As I've just noted, I think exclusivity should be earned. We've built an 85 transmitter system in California and Nevada, and we've only been in business since April of 1991. We're also going to build an RCC channel and are currently looking for a statewide frequency.

What role do you think NABER should play on this issue?

I'm very much in favor of industry self-regulation. This is why NABER's role is so important. If there's going to be exclusivity, it should be earned. Anything other than that doesn't give the frequencies proper utilization. There are state-wide frequencies in California right now that aren't built, but we haven't been able to get them, because they're being held for the future.

NABER is very much needed today and it will be an increasingly important player as time goes on.

CON

Barry Phillips
General Manager
MobileComm/Bell South
Baton Rouge, Louisiana

How do you feel about the idea of paging channels being distributed as exclusive on the 900 MHz band?

Well, it's a 180 degree about-face, with regard to the whole philosophy [of private carrier paging], isn't it? It smells like RCC. It's obviously going to create great potential for unallocated channels.

I think there will be some significant coordination problems/issues facing NABER, based on "where does the market begin and end?" With the obvious movement toward regional systems, there are going to be some co-channel issues—we're going to have systems bumping up against one another. I think some very real issues come up relative to what defines a market and who has rights. There will be a lot of issues that PCPs haven't faced before.

There's also been talk of allocating one or several [channels] as nationwide frequencies. I can't speak to whether or not they're needed. There are several carriers in the nationwide business, MobileComm being one of them. Certainly such an arrangement would afford an opportunity for someone else to get into the nationwide business, which may be healthy.

How would this affect your business?

"What constitutes a region?" is an important issue here. This was one of the things discussed at a recent NABER meeting. I'm not sure anyone has an answer.

We have a regional system on the Gulf Coast. Network USA has a regional system from Florida to Mississippi. We've interconnected our systems, creating a pretty significant regional network that runs from Houston to Florida. If you're in a situation where you have cooperative ventures like this, and the parties are able to work together, that's fine.

But in congested areas, such as the Northeast, what then defines a region? There's some real issues relative to the assignment of frequencies. As a business expands, it wants to be able to expand with its customer base. At some point, regardless of whether these new frequencies are assigned, we're going to run into problems, or challenges, as these systems expand and become regional networks. Some will have to do with how the exclusive frequencies are allocated. Are they going to be auctioned? Are you going to ensure that those people, who filed for and are granted licenses, are serious players, or just speculators? I don't have answers to these questions, yet they will have to be wrestled with.

How do you think it would impact the paging industry?

It's premature to say. There's so much consolidation going on in the industry right now, I'm not sure what effect it will have. It could open things up and create more competition. It may complicate business expansion plans, depending on who gets the frequencies. Right now I'd say it's a bowl of spaghetti.

►

EXCLUSIVITY

(Continued from previous page)

Do you have any alternative ideas?

I would prefer to see us operate PCP frequencies as we have in the past. I'm still not sure that I have a clear understanding as to why this [change] is being considered in the first place.

What role do you think NABER should play on this issue?

What you're doing here [with this article] demonstrates that NABER is taking a proactive role—getting the word out to members. There are lots of people who pay little attention to what's going on in the industry, so when something happens, it comes as a big surprise! Getting into a dialogue as broad-based as possible is a step in the right direction. I think NABER should be commended for taking that posture.

Lanty Wylie
President
AACS Communications, Inc.
Arlington, Texas

How do you feel about the idea of paging channels being distributed as exclusive on the 900 MHz band?

There should be no exclusivity in the business paging bands, because that was never the thought behind the whole concept. Originally, the idea was to make it easy for individuals to apply to the FCC for a license and get into the paging business. The arrangement has worked well and should continue.

How would this affect your business?

This is hard to say. It will depend, to some degree, on the actions of very large paging companies and whether or not the FCC decides to withdraw certain channels currently in use (refarming). AACS is regional, covering Dallas/Fort Worth, Austin, Houston, San Antonio, and surrounding areas.

How do you think it would impact the paging industry?

It would probably speed up the entry of large national operators, including RCCs.

Do you have any alternative ideas?

A much better idea would be to have NABER assign frequencies to applicants as they come in, instead of the applicant asking for a specific frequency. Here's how it would work: I would apply for a paging license. NABER would access its data base and assign a frequency, based on the least-used channel. It would be my responsibility, working with NABER's engineering group, to test (monitor) that channel, to see if it was, in fact, a good, usable channel. If the tests were positive, and I believe in almost every instance they would be, then the FCC would approve the license.

What role do you think NABER should play on this issue?

NABER has positioned itself in such a way that it has a lot of integrity at the Commission, and I think if they proposed something like this, the Commission would buy it.

John Gay
President
A-1 Communications
Amarillo, Texas

How do you feel about the idea of paging channels being distributed as exclusive on the 900 MHz band?

I'm apprehensive. If we do that, we're vesting property rights to people, like we now do with RCCs. Properties have boundaries. Now we've eliminated the last difference between RCCs and PCPs, except for eligibility.

How would this affect your business?

It wouldn't affect it. There are plenty of channels available here, below 900 MHz. A-1 is a medium-sized paging operation, with business equally divided between RCC and PCP. We are a regional operation and don't presently operate in the 900 MHz band.

How do you think it would impact the paging industry?

I'm fearful that in regulated states, the Public Utility Commissions (PUCs) would gain authority. I can tell you from experience that they want no new entrants. The big advantage of NABER frequencies so far has been that state PUCs have been unable to gain any regulation over them.

It's nice to have exclusivity, but are we going to cross the line and give Telocator and the state PUCs the ammunition they've been looking for?

Do you have any alternative ideas?

We must insist that new entrants on 152.480 MHz, or on any other busy channel, take whatever action is necessary to avoid interference, and do so at their own expense. With cooperation, shared frequencies can work.

With the refarming issue raised, the FCC should encourage paging operators to move to the 900 MHz band.

There are a lot of things that can be done. I've been an advocate of trunking, below 800 MHz, for years. It's much more efficient.

What role do you think NABER should play on this issue?

NABER should investigate the likelihood of state control, if exclusivity is granted.

Holding an exclusive paging channel certainly has appeal. There's no question about that. If you had it and a competitor didn't (with the same regulations), you would have a definite advantage. If every operator had the opportunity to be exclusive, would they all say "yes"?

For PCPs in small cities and rural areas, exclusivity would solve a problem they don't have. As you've seen by the comments of NABER members here, the discussion of exclusivity raises many questions that would need to be answered before any changes could be made. Here are just a few:

- Will everyone have to move to an exclusive 900 MHz channel? (Refarming the spectrum.)
- Will frequencies be set aside for regional and national networks?
- With the number of pagers on a system growing daily, how can "earned exclusivity" work?
- Will state PUCs gain control of exclusive channels?
- Will exclusivity force the FCC to use auctions?
- Will freeing up 200 MHz of government and military frequencies make exclusivity unnecessary?
- Will exclusivity speed the entry of very large players, who will build national networks, possibly squeezing out the small operators?

These and many other questions can and should be raised. How they're answered may well determine the future of the exclusivity issue. ■

Jim Rapp is a contributing editor to Business Radio.

APCP Council meets in Dallas, sets objectives for 1992

by Tamra S. Robinson

"APCP members asked for this meeting to discuss further the exclusivity issue for 900 MHz," said APCP Council Chairman Mike Cutler, describing the December 17, 1991, meeting held in Dallas. "NABER recognized the importance of this issue to its members and suggested the Dallas location so that members who haven't been able to attend previous East Coast meetings would be able to attend this one."

Exclusivity at 900 MHz

As a result of the meeting, the Council is currently drafting a proposal on earned exclusivity for the 900 MHz band, one that basically calls for earned protection in that band. This means that channels would be shared until a frequency reaches a designated loading level; upon reaching that level, the frequency would then become "exclusive" to the existing licensees.

In answering the question of loading levels—should loading be determined by air time or by number of pagers—the Council selected number of pagers as the loading measure. Additionally, the Council decided that pager loading would be based on current APCP loading level standards for bands below 900 MHz.

While there are no minimum or maximum loading standards for paging in the FCC Rules, the APCP has set guidelines for determining pager loading to help manage the frequencies. Currently, that number stands at 20,000 paging receivers for frequencies below 900 MHz—when a frequency hits this number of pagers, the coordinator researches the channel to determine if it can accommodate additional users.

Look for more information on the 900 MHz Petition in future issues of *PC Pages*.

Inequitable interconnect services are top priority

Once the 900 MHz question was resolved, another issue rose to the top of the priority list for the coming year: disparaging rates for telephone interconnect services between RCCs and PCPs. Telephone companies in some states have been charging higher rates to PCPs for the same services they offer to RCCs. More and more PCPs are now questioning the legality of this practice, evidenced by the growing number of lawsuits claiming price discrimination by telephone companies.

In most states, the Public Utility Commission (PUC) regulates the telephone companies. This creates a problem because the FCC and the PUCs continue to battle over who has jurisdiction over the local telephone companies. As the differences between RCCs and PCPs break down and the two become more similar, so too should the rates for the same service, the Council reasoned.

"The problem is regulatory," said Council member John Solinger of Beepers Plus in Memphis, Tennessee, whose company is currently involved in one such lawsuit over price discrimination. "RCCs and PCPs are so similar now and yet in many states there is still discrimination. This may be due to ignorance of the differences between RCCs and PCPs. The way to approach this is to put pressure on the FCC to effect a ruling that eliminates price discrimination. It's a touchy issue, though, because the FCC generally doesn't want to get involved in intrastate issues.

"The APCP can help because, all over the country, individuals are fighting this price inequity by themselves, and the Council is attempting to bring these people together," Solinger continued. "NABER is the one to start the dialogue with the FCC, and the FCC can make a ruling that PCPs are entitled to the same type of interconnect service at the same rate that RCCs receive."

Cutler reaffirmed the APCP's commitment to this issue, stating, "The Council is now collecting feedback from members to explore how we can best fight this inequity." The Council plans to develop its strategy based on the response from APCP members. The next Council meeting will be in May at NABER's 1992 Mobile Communications Conference, where the APCP will develop further its plan of action.

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